

UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF TEXAS

HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
	§	
v.	§	CRIMINAL NO.
	§	
MICHELLE M. VALENCIA,	§	False Reporting; 7 U.S.C. § 13(a)(2)
	§	Wire Fraud; 18 U.S.C. § 1343
Defendant.	§	

INDICTMENT

THE GRAND JURY CHARGES:

COUNT ONE

(False Reporting -- 7 U.S.C. § 13(a)(2))

A. Introduction.

At all times material to this indictment:

1. Natural gas was a commodity that traveled in interstate commerce through a vast network of pipelines that spanned Canada, the United States and Mexico.
2. Dynegey, Inc. ("Dynegey") was a publicly traded Illinois corporation with its headquarters at 1000 Louisiana Street in Houston, Texas. Dynegey Marketing and Trade was a natural gas marketer and maintained a large natural gas trading operation on a single floor that traded natural gas from its offices also at 1000 Louisiana Street in Houston, Texas. Dynegey Marketing and Trade was a Colorado general partnership, the partners of which were DMT Holdings, L.P. and Dynegey GP, Inc., both of which are indirectly owned by Dynegey.
3. Defendant **MICHELLE M. VALENCIA** was employed by Dynegey Marketing

and Trade in Houston, Texas, as a natural gas trader on Dynegy's "West desk".

4. Natural gas traders such as **VALENCIA** were in the business of buying and selling natural gas for a profit. Traders could enter into transactions calling for the physical delivery of natural gas. Such transactions were called "physical" trades. Physical trades occurred at fixed prices or at "index" prices. Movements in index prices often affected the size of the profits that traders such as **VALENCIA** were able to generate.

5. Electric utilities often purchased natural gas at prices tied to index prices. In addition, the prices of natural gas contracts were often based on index prices.

6. Certain index prices were published by an industry newsletter, *Inside FERC Gas Market Report* ("Inside FERC"), on the first day of each month. *Inside FERC* calculated those index prices by using information it received from traders during monthly surveys. That information included the price and volume of fixed price, physical natural gas trades during a period of time at the end of each month called "bid week".

7. Traders who reported false information to *Inside FERC* tended to affect the price of natural gas by pushing *Inside FERC*'s index prices up or down which potentially cost consumers of electricity and natural gas throughout the country great sums of money.

B. False Reporting.

On or about November 30, 2000, in the Houston Division of the Southern District of Texas,

MICHELLE M. VALENCIA

defendant herein, did knowingly deliver and cause to be delivered for transmission through interstate commerce by telephone and other means of communication false and misleading and knowingly

inaccurate reports concerning market information that affected and tended to affect the price of natural gas, a commodity in interstate commerce, that is, defendant VALENCIA sent and caused Dynegy Marketing and Trade to send an email from Houston, Texas, to *Inside FERC*, in Washington, D.C., that included volume and price data for three trades of natural gas by Dynegy Marketing and Trade when VALENCIA knew that none of these reported three trades actually occurred.

In violation of Title 7, United States Code, Section 13(a)(2).

COUNT TWO

(False Reporting -- 7 U.S.C. § 13(a)(2))

A. **Introduction.**

The allegations of Section A of Count One are repeated and realleged as if fully set forth herein.

B. **False Reporting.**

On or about January 31, 2001, in the Houston Division of the Southern District of Texas,

MICHELLE M. VALENCIA

defendant herein, did knowingly deliver and cause to be delivered for transmission through interstate commerce by telephone and other means of communication false and misleading and knowingly inaccurate reports concerning market information that affected and tended to affect the price of natural gas, a commodity in interstate commerce, that is, defendant VALENCIA sent and caused Dynegy Marketing and Trade to send an email from Houston, Texas, to *Inside FERC*, in Washington, D.C., that included volume and price data for thirty-three trades of natural gas by Dynegy Marketing and Trade when VALENCIA knew that none of these reported thirty-three trades

actually occurred.

In violation of Title 7, United States Code, Section 13(a)(2).

COUNT THREE

(False Reporting -- 7 U.S.C. § 13(a)(2))

A. **Introduction.**

The allegations of Section A of Count One are repeated and realleged as if fully set forth herein.

B. **False Reporting.**

On or about February 28, 2001, in the Houston Division of the Southern District of Texas,

MICHELLE M. VALENCIA

defendant herein, did knowingly deliver and cause to be delivered for transmission through interstate commerce by telephone and other means of communication false and misleading and knowingly inaccurate reports concerning market information that affected and tended to affect the price of natural gas, a commodity in interstate commerce, that is, defendant VALENCIA sent and caused Dynegy Marketing and Trade to send an email from Houston, Texas, to *Inside FERC*, in Washington, D.C., that included volume and price data for seven trades of natural gas by Dynegy Marketing and Trade when VALENCIA knew that none of these seven reported trades actually occurred.

In violation of Title 7, United States Code, Section 13(a)(2).

COUNT FOUR
(Wire Fraud -- 18 U.S.C. § 1343)

A. Introduction.

The allegations of Section A of Count One are repeated and realleged as if fully set forth herein.

B. The Scheme to Defraud.

From on or about November 30, 2000 through on or about February 28, 2001, in the Houston Division of the Southern District of Texas, and elsewhere,

MICHELLE M. VALENCIA

defendant herein, aided and abetted by others known and unknown to the grand jury, did knowingly devise and intend to devise a scheme and artifice to defraud and for obtaining money and property by means of material false and fraudulent pretenses, representations and promises.

C. The Manner and Means of the Scheme.

1. It was a part of said scheme that defendant VALENCIA would and did fabricate a list of fictitious gas trades of natural gas by Dynegy Marketing and Trade.

2. It was a further part of said scheme that defendant VALENCIA would and did report and cause Dynegy Marketing and Trade to report fictitious gas trades to *Inside FERC* for use in calculating an index price.

3. It was a further part of said scheme that defendant VALENCIA would and did discuss fictitious gas trades over the telephone with an editor of *Inside FERC*.

D. The Execution of the Scheme.

On or about November 30, 2000, for the purpose of executing the aforementioned scheme to defraud and intending to do so, the defendant did transmit and cause to be transmitted in

interstate and foreign commerce writings, signals and sounds, that is, the defendant, in Houston, Texas, sent and caused to be sent an e-mail to *Inside FERC* in Washington, D.C. which reported fictitious gas trades by Dynegy Marketing and Trade.

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT FIVE

(Wire Fraud -- 18 U.S.C. § 1343)

A. **Introduction.**

The allegations of Section A of Count One and Sections B and C of Count Four are repeated and realleged as if fully set forth herein.

B. **The Execution of the Scheme.**

On or about January 31, 2001, for the purpose of executing the aforementioned scheme to defraud and intending to do so, the defendant, **MICHELLE M. VALENCIA**, did transmit and cause to be transmitted in interstate and foreign commerce writings, signals and sounds, that is, the defendant, in Houston, Texas, sent and caused to be sent an e-mail to *Inside FERC* in Washington, D.C. which reported fictitious gas trades by Dynegy Marketing and Trade.

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT SIX

(Wire Fraud -- 18 U.S.C. § 1343)

A. Introduction.

The allegations of Section A of Count One and Sections B and C of Count Four are repeated and realleged as if fully set forth herein.

B. The Execution of the Scheme.

On or about February 28, 2001, for the purpose of executing the aforementioned scheme to defraud and intending to do so, the defendant, **MICHELLE M. VALENCIA**, did transmit and cause to be transmitted in interstate and foreign commerce writings, signals and sounds, that is, the defendant, in Houston, Texas, sent and caused to be sent an e-mail to *Inside FERC* in Washington, D.C. which reported fictitious gas trades by Dynegy Marketing and Trade.

In violation of Title 18, United States Code, Sections 1343 and 2.

COUNT SEVEN

(Wire Fraud -- 18 U.S.C. § 1343)

A. Introduction.

The allegations of Section A of Count One and Sections B and C of Count Four are repeated and realleged as if fully set forth herein.

B. The Execution of the Scheme.

On or about February 28, 2001, for the purpose of executing the aforementioned scheme to defraud and intending to do so, the defendant, **MICHELLE M. VALENCIA**, did transmit and cause to be transmitted in interstate and foreign commerce writings, signals and sounds,

that is, the defendant, in Houston, Texas, spoke over the telephone with an editor of *Inside FERC* in Washington, D.C.

In violation of Title 18, United States Code, Sections 1343 and 2.

A TRUE BILL:

FOREPERSON OF THE GRAND JURY

MICHAEL T. SHELBY
UNITED STATES ATTORNEY

By:

John R. Braddock
Assistant United States Attorney

Eric Reed
Assistant United States Attorney